

1 **SSB 6054 - H COMM AMD NOT ADOPTED 4/24/03**
2 By Committee on Commerce & Labor

3 On page 2, beginning on line 1, strike all of section 2 and
4 insert the following:

5 "Sec. 2. RCW 49.12.005 and 1998 c 334 s 1 are each amended to
6 read as follows:

7 For the purposes of this chapter:

8 (1) (~~The term~~) "Department" means the department of labor and
9 industries.

10 (2) (~~The term~~) "Director" means the director of the
11 department of labor and industries, or the director's designated
12 representative.

13 (3) (~~The term~~) (a) Before the effective date of this act,
14 "employer" means any person, firm, corporation, partnership,
15 business trust, legal representative, or other business entity
16 which engages in any business, industry, profession, or activity in
17 this state and employs one or more employees (~~and~~) but does not
18 include the state, any state institution, any state agency,
19 political subdivisions of the state, and any municipal corporation
20 or quasi-municipal corporation. However, for the purposes of RCW
21 ((49.12.270)) 49.12.265 through 49.12.295 ((and)), 49.12.350
22 through 49.12.370, 49.12.450, and 49.12.460 only, "employer" also
23 includes the state, any state institution, any state agency,
24 political subdivisions of the state, and any municipal corporation
25 or quasi-municipal corporation.

26 (b) On and after the effective date of this act, "employer"
27 means any person, firm, corporation, partnership, business trust,
28 legal representative, or other business entity which engages in any
29 business, industry, profession, or activity in this state and
30 employs one or more employees, and includes the state, any state
31 institution, state agency, political subdivisions of the state, and
32 any municipal corporation or quasi-municipal corporation.

1 (4) (~~The term~~) "Employee" means an employee who is employed
2 in the business of the employee's employer whether by way of manual
3 labor or otherwise.

4 (5) (~~The term~~) "Conditions of labor" (~~shall~~) means and
5 includes the conditions of rest and meal periods for employees
6 including provisions for personal privacy, practices, methods and
7 means by or through which labor or services are performed by
8 employees and includes bona fide physical qualifications in
9 employment, but shall not include conditions of labor otherwise
10 governed by statutes and rules and regulations relating to
11 industrial safety and health administered by the department.

12 (6) For the purpose of chapter 16, Laws of 1973 2nd ex. sess.
13 a minor is defined to be a person of either sex under the age of
14 eighteen years.

15 **Sec. 3.** RCW 49.12.187 and 1973 2nd ex.s. c 16 s 18 are each
16 amended to read as follows:

1 This chapter shall not be construed to interfere with, impede,
2 or in any way diminish the right of employees to bargain
3 collectively with their employers through representatives of their
4 own choosing concerning wages or standards or conditions of
5 employment. However, rules adopted under this chapter regarding
6 appropriate rest and meal periods as applied to public employees
7 may be superseded by a collective bargaining agreement negotiated
8 under a state collective bargaining law if the terms of the
9 collective bargaining agreement covering such employees
10 specifically require rest and meal periods and prescribe
11 requirements concerning those rest and meal periods.

12 **Sec. 4.** RCW 49.12.360 and 1989 1st ex.s. c 11 s 23 are each
13 amended to read as follows:

14 (1) An employer must grant an adoptive parent or a stepparent,
15 at the time of birth or initial placement for adoption of a child
16 under the age of six, the same leave under the same terms as the
17 employer grants to biological parents. As a term of leave, an
18 employer may restrict leave to those living with the child at the
19 time of birth or initial placement.

20 (2) An employer must grant the same leave upon the same terms
21 for men as it does for women.

1 (3) The department shall administer and investigate violations
2 of this section. Notices of infraction, penalties, and appeals
3 shall be administered in the same manner as violations under RCW
4 49.12.285.

5 ~~(4) ((For purposes of this section, "employer" includes all
6 private and public employers listed in RCW 49.12.005(3).~~

7 ~~(5))~~ For purposes of this section, "leave" means any leave
8 from employment granted to care for a newborn or a newly adopted
9 child at the time of placement for adoption.

10 ~~((+6))~~ (5) Nothing in this section requires an employer to:

11 (a) Grant leave equivalent to maternity disability leave; or

12 (b) Establish a leave policy to care for a newborn or newly
13 placed child if no such leave policy is in place for any of its
14 employees.

15 **Sec. 5.** RCW 49.12.460 and 2001 c 173 s 1 are each amended to
16 read as follows:

17 (1) An employer may not discharge from employment or discipline
18 a volunteer fire fighter because of leave taken related to an alarm
19 of fire or an emergency call.

20 (2)(a) A volunteer fire fighter who believes he or she was
21 discharged or disciplined in violation of this section may file a
22 complaint alleging the violation with the director. The volunteer
23 fire fighter may allege a violation only by filing such a complaint
24 within ninety days of the alleged violation.

25 (b) Upon receipt of the complaint, the director must cause an
26 investigation to be made as the director deems appropriate and must
27 determine whether this section has been violated. Notice of the
28 director's determination must be sent to the complainant and the
29 employer within ninety days of receipt of the complaint.

30 (c) If the director determines that this section was violated
31 and the employer fails to reinstate the employee or withdraw the
32 disciplinary action taken against the employee, whichever is
33 applicable, within thirty days of receipt of notice of the
34 director's determination, the volunteer fire fighter may bring an
35 action against the employer alleging a violation of this section
36 and seeking reinstatement or withdrawal of the disciplinary action.

37 (d) In any action brought under this section, the superior
38 court shall have jurisdiction, for cause shown, to restrain

1 violations under this section and to order reinstatement of the
2 employee or withdrawal of the disciplinary action.

3 (3) For the purposes of this section:

4 (a) "Alarm of fire or emergency call" means responding to,
5 working at, or returning from a fire alarm or an emergency call,
6 but not participating in training or other nonemergency activities.

7 (b) "Employer" means (~~any person~~) an employer who had twenty
8 or more full-time equivalent employees in the previous year.

9 (c) "Reinstatement" means reinstatement with back pay, without
10 loss of seniority or benefits, and with removal of any related
11 adverse material from the employee's personnel file, if a file is
12 maintained by the employer.

13 (d) "Withdrawal of disciplinary action" means withdrawal of
14 disciplinary action with back pay, without loss of seniority or
15 benefits, and with removal of any related adverse material from the
16 employee's personnel file, if a file is maintained by the employer.

17 (e) "Volunteer fire fighter" means a fire fighter who:

18 (i) Is not paid;

19 (ii) Is not already at his or her place of employment when
20 called to serve as a volunteer, unless the employer agrees to
21 provide such an accommodation; and

22 (iii) Has been ordered to remain at his or her position by the
23 commanding authority at the scene of the fire.

24 (4) The legislature declares that the public policies
25 articulated in this section depend on the procedures established in
26 this section and no civil or criminal action may be maintained
27 relying on the public policies articulated in this section without
28 complying with the procedures set forth in this section, and to
29 that end all civil actions and civil causes of action for such
30 injuries and all jurisdiction of the courts of this state over such
31 causes are hereby abolished, except as provided in this section."

32 Renumber the sections consecutively, correct internal references
33 accordingly, and correct the title.

EFFECT: The amendment: (1) deletes the limitation that would
make the Industrial Welfare Act(IWA) apply to the public sector

after the bill's effective date only to the extent that the IWA does not conflict with statutes, ordinances, or rules; (2) allows public employees to enter into agreements that supercede the IWA only if the agreements are bargained under state collective bargaining laws and only with respect to rest and meal breaks (instead of with respect to all wages, hours, and working conditions); and (3) makes technical changes so that various other references in the IWA to "public employer" are consistent.